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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/722,898	11/26/2003	Lane Smith	P-103786.3 (UTI)	2886

7590 04/11/2005

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EXAMINER
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HSIEH, SHIH YUNG

ART UNIT	PAPER NUMBER
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2837

DATE MAILED: 04/11/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

H.A

**Office Action Summary**

Application No.

10/722,898

Applicant(s)

SMITH ET AL.

Examiner

Shih-yung Hsieh

Art Unit

2837

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-26 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 13-17 is/are allowed.
- 6) ☒ Claim(s) 1-7, 9, 10, 12 and 18-26 is/are rejected.
- 7) ☒ Claim(s) 8 and 11 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 26 November 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>2/2/2004</u> . | 6) <input type="checkbox"/> Other: ____.  |

1. The drawings are objected to because numeral 54 (page 8, lines 6, 9) is not in the drawing. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

2. The disclosure is objected to because of the following informalities:

The title "Brief Description of the Preferred Embodiment" should be "Brief Description of the Drawings" (page 3) to comply with recommend section titles in MPEP.

FEP (page 6, line 20) should be spelled out before using abbreviation.

Appropriate correction is required.

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1, 3-7, 12, 18-24, and 26 are rejected under 35 U.S.C. 102(b) as being anticipated by Hardy (4,325,280).

Regarding claim 1, 18, and 26, Hardy discloses a device for damping a vibratable surface comprising: a patch comprising a resilient, pliable, adhesive body (52) and an integral flexible base (50).

Regarding claim 3, Hardy discloses the claimed invention (free of oil is inherent in the device).

Regarding claims 4-7, Hardy discloses the claimed invention (col. 3, line 2, and Figs. 1 and 4).

Regarding claim 12, Hardy discloses the claimed invention.

Regarding claims 19 and 20, see above.

Regarding claim 21, the claim recites a function that is inherent in the disclosed device of Hardy.

Regarding claims 22 and 23, Hardy discloses the claimed invention (col. 3, lines 2-3).

Regarding claim 24, Hardy discloses the claimed invention (54).

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 2 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hardy in view of McGill (6,365,812).

Regarding claim 2, Hardy discloses the claimed invention except that the resilient pliable body is comprised of polyurethane.

McGill teaches a drumhead using polyurethane for uniformly wetting the drumhead (col. 5, lines 58-59). It would have been obvious to one having ordinary skill in the art to modify Hardy's device as taught by McGill to include the resilient pliable body being comprised of polyurethane for the purpose of uniformly wetting the foam base.

Regarding claim 9, Hardy discloses the claimed invention except that the polyurethane substantially saturates the foam.

McGill teaches using polyurethane to saturate a drumhead for uniformly wetting the drumhead (col. 5, lines 58-59). It would have been obvious to one having ordinary skill in the art to modify Hardy's device as taught by McGill to include the polyurethane substantially saturating the foam for the purpose of uniformly wetting the foam.

7. Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hardy in view of Fletemier et al. (6,364,976).

Regarding claim 10, Hardy discloses the claimed invention except that the patch includes a top and bottom surface and the foam is the same distance from the top surface as it is from the bottom surface.

Fletemier et al. teach a patch including a top and bottom surface (122 shown in Fig. 2), and a base (121) is the same distance from the top surface as it is from the bottom surface (Fig. 2) for enhancing the sound absorption (col. 3, lines 47-49). It would have been obvious to one having ordinary skill in the art to modify Hardy's device as taught by Fletemier et al. to include the patch includes a top and bottom surface and the foam is the same distance from the top surface as it is from the bottom surface for the purpose of enhancing the sound absorption.

8. Claim 25 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hardy in view of Miura (JP9109346).

Regarding claim 25, Hardy discloses the claimed invention except that the skin is a thin polyurethane sheet.

Miura teaches the skin being a thin polyurethane sheet (abstract) protecting a pressure sensitive adhesive tape. It would have been obvious to one having ordinary skill in the art to modify Hardy's device as taught by Miura to include the skin being a thin polyurethane sheet for the purpose of protecting an adhesive tape.

Art Unit: 2837

9. Claims 8 and 11 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

10. Claims 13-17 are allowed.

11. The claims are allowable over the prior art for at least the reason that the prior art fails to reasonably teach or suggest in claim 8 that a second patch for stacking on the first patch, the first patch for attaching to the vibratable surface, in claim 11 that the patch includes a top and bottom surface and the foam is closer to one of the top surface or the bottom surface than the other, and in claim 13 that a method steps of applying the polyurethane mix to the flat surface, and laying a sheet of base material onto the polyurethane mix as set forth in the claimed combination.

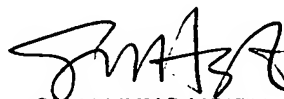
12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Shih-yung Hsieh whose telephone number is 571-272-2065. The examiner can normally be reached on 7:00-3:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Martin can be reached on 571-272-2107. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 2837

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

syh

  
SHIH-YUNG HSIEH  
PRIMARY EXAMINER